

The Bill of Rights and The Founders

Provides an introduction and overview of the Bill of Rights, including the Founders' understanding of the "rights of Englishmen," British law, and natural rights philosophy. This unit also examines the Federalist and Anti-Federalist debate about a bill of rights.

The Bill of Rights and *The Founders*

Unit Introduction

Today, most Americans think of the Bill of Rights as an integral part of the Constitution and political system. The delegates at the Constitutional Convention disagreed sharply about whether a bill of rights was necessary at all and, if desirable, what one should include. The Founders' debate featured references to English law and history, as well as to America's unique colonial experience. Led by James Madison, the Founders eventually crafted a bill of rights touching on nearly every aspect of civil society: religion, expression, security, property, and equitable administration of justice. Even after 200 years, the amendments they drafted influence the lives of Americans every day.

Unit Objectives

Students will:

- Explain similarities between historical statements of rights and their modern applications.
- Understand the ideas of the "Rights of Englishmen" and natural rights.
- Understand the evolution of the concept of rights and its impact on the Bill of Rights.
- Analyze the debates surrounding the addition of a Bill of Rights to the Constitution.
- Evaluate Federalist and Anti-Federalist arguments.

Synopsis of Lessons and DVD

Lesson 1

Students explore important English and colonial documents that influenced the writing of the Bill of Rights, including Magna Carta, the English Declaration of Rights, and the Virginia Declaration of Rights. Students will identify their own beliefs about individual rights and how those rights impact their everyday lives.

Lesson 2

Students explore the debate over the Bill of Rights, including Federalist and Anti-Federalist positions. The lesson also begins to explore the impact the Bill of Rights has had since 1791, laying a foundation for the future.

"All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate which would be oppression."

— THOMAS JEFFERSON

"Government should be formed to secure and to enlarge the exercise of the natural rights of its members; and every government, which has not this in view, as its principal object, is not a government of the legitimate kind."

— JAMES WILSON

LESSON

1

What Are the Origins of the Bill of Rights?**Overview**

The Founders saw themselves as heirs to a legacy of increasing freedom stretching back to Magna Carta. Events and philosophies from British and colonial history shaped the Founders' ideas about natural rights as well as the "rights of Englishmen." These rights impact all of our daily lives in a free society.

Standards

- NCHS (5-12): Era III, Standards 1A, 1B, 3A, 3B
- CCE (9-12): IIA1, IID1, VB1, VD1
- NCSS: Strands 6 and 10

Recommended Time

One 45-minute class period.

Objectives

Students will:

- Understand the ideas of the "rights of Englishmen" and natural rights.
- Identify similarities between historical statements of their rights and their current applications.

- Consider personal responsibilities and methods to protect individual rights.
- Understand how the colonial experience affected the development of the Bill of Rights.
- Analyze how the history behind English rights and the concept of natural rights influenced the American Revolution and the notion of just government.
- Evaluate the significance of individual rights in their daily lives.

Materials**STUDENT**

- Key Terms
- Background Essay
- Reading Quiz (optional)
- Founders DVD: Segment One and Viewing Guide
- Handout A: Rights Attitude Inventory
- Handout B: Foundations of Our Rights
- Handout C: Founding Documents and Philosophies

TEACHER

- Key: Handout B
- Key: Handout C

Lesson Plan**1. Background/
Homework**

[10 minutes the day before]

A. Have students skim the Lesson One **Background Essay, "The Colonial Experience"** and use highlighters or colored pencils to color code the components:

- Information about documents written in England: yellow
- Information about documents written in America: green
- Violations of rights in the American colonies: red

B. Have students write a one or two sentence reaction to the **Background Essay**: what does the essay make you wonder about the "rights of Englishmen?"

2. Warm-Up

[10-15 minutes]

A. Begin discussion of the Founders by talking about a "real life" news story highlighting the topic. Visit the Bill of Rights Institute website, <http://www.billofrights.institute.org>, for daily headlines or a complete "Bill of Rights in the News" activity.

B. Distribute **Handout A: Rights Attitude Inventory**. Ask students to rank the rights listed from least to most important. Then, as a class, ask students to share their answers. Keep a tally on the board of which rights the class ranked as “1” or most important, as well as “10” or least important.

C. Go around the class, having students count off numbers one through ten. They should then write a paragraph about the right corresponding to their number on **Handout A**, explaining why that right is so important to a free society. Have students read their responses aloud, and share their reasoning for their rankings on **Handout A**.

3. Activity [20-30 minutes]

A. Divide class into pairs to fill in **Handout B: Foundations of Our Rights**.

B. Use a transparency of **Handout B** to provide guidance. Ask for student volunteers to come to the overhead projector and fill in the checks on the chart.

C. Distribute **Handout C: Founding Documents and Philosophies**. Student pairs should discuss and answer the questions on **Handout C**.

D. Bring the class back together and go over **Handout C** as a large group.

E. Show segment one of Founders DVD and have students complete Viewing Guide.

Extension Options

Homework

A. Ask students to complete question five of **Handout C**, and report their findings to the class in an oral report.

Enrichment

A. Have the class discuss this quote from James Madison's *Federalist No. 51* (1788). Point out to students that the quote illustrates that the Founders themselves were very concerned about the proper balance between security and liberty. Ask them to consider: how can liberty be abused?

“If men were angels, no government would be necessary.”

B. Have the class examine this quote from Pastor Martin Niemöller, a survivor of Dachau concentration camp. Students should note that the quote illustrates the importance of all citizens being vigilant and active in the protection of rights.

“First they came for the Communists, but I was not a Communist, so I said nothing. Then they came for the Social Democrats, but I was not a Social Democrat, so I did nothing. Then came the trade unionists, but I was not a trade unionist. And then they came for the Jews, but I was not a Jew, so I did little. Then when they came for me, there was no one left to stand up for me.”



Real Life Portal

Have students choose a newspaper or Internet article about suggested restrictions on liberty proposed to combat terrorism. Have them write a one-page letter to the editor explaining whether restrictions on liberty are ever justified, and why.

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LESSONS 1 & 2

Key Terms

Unlock the Key Terms

Choose a key term and write a sentence correctly using the word(s).

Directions: As you read each Background Essay, be on the lookout for these key terms. After reading, write out the correct definition for each term.

Magna Carta _____

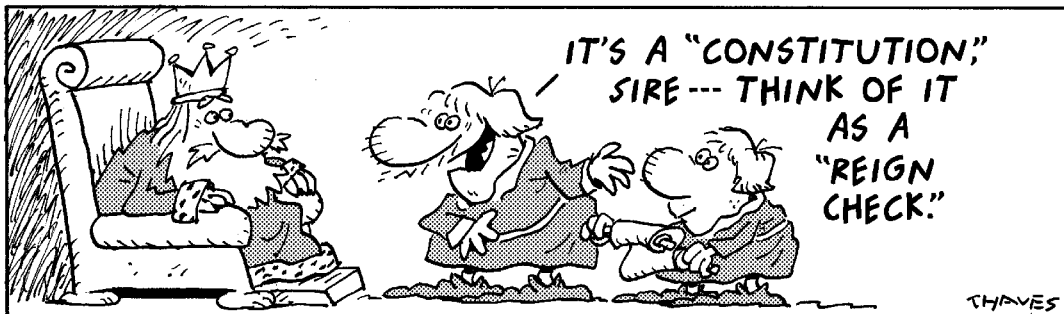
John Locke _____

natural rights _____

Federalists _____

Anti-Federalists _____

ratify _____



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LESSON 1 **What Are the Origins of the Bill of Rights?**

Many colonists felt betrayed by the British government as their rights were taken away. The colonists were forced to allow British soldiers to stay in their homes. They had their own weapons taken away and saw restrictions put on speech and the press. They were not even allowed to gather together freely. Ironically, the British government had given the colonists the idea of “essential rights.” Now it was the British government that challenged those principles.

READING TIP:

Pay close attention to the amendment numbers in parentheses after each right.

What Is the Magna Carta?

These rights were part of a centuries old heritage. In fact, much of American colonial law was based on the rights of Englishmen. The oldest document in the British and American heritage of rights, the Magna Carta, was written in 1215.

This heritage is alive in America today. More than half the Amendments in the Bill of Rights have roots in the Magna Carta. England’s King John agreed to preserve the freedom of the Church and to hear petitions from the barons (First Amendment). He also agreed to remove foreign armies from England (Third Amendment); not to seize land to pay for debts (Fourth Amendment); not to take life or liberty without due process or repayment (Fifth Amendment). He swore not to delay court proceedings or punish

without hearing from witnesses (Sixth Amendment), as well as to repay unjust fines and not to issue extreme punishments (Eighth Amendment).

How Were Rights Protected and Expanded?

Through the centuries, Magna Carta freedoms found their way into English common law. Englishmen were fiercely protective of these rights when the King tried to withdraw them.

In the 17th century, King Charles I disbanded Parliament and said he was ruling England on his own. House of Commons member Sir Edward Coke presented a list of complaints. This list came to be called the Petition of Right. This established the principle that the King was not above the law.

Charles’s abuses of the law included denying Englishmen due process (Fifth Amendment); protection from unjust taking of property or imprisonment (Fourth and Fifth Amendments); the right to trial by fellow Englishmen (Sixth Amendment); and protection from unjust punishments or fines (Eighth Amendment). Although Charles first agreed to stop breaking the law, he soon went back on his word. He was beheaded in 1649.

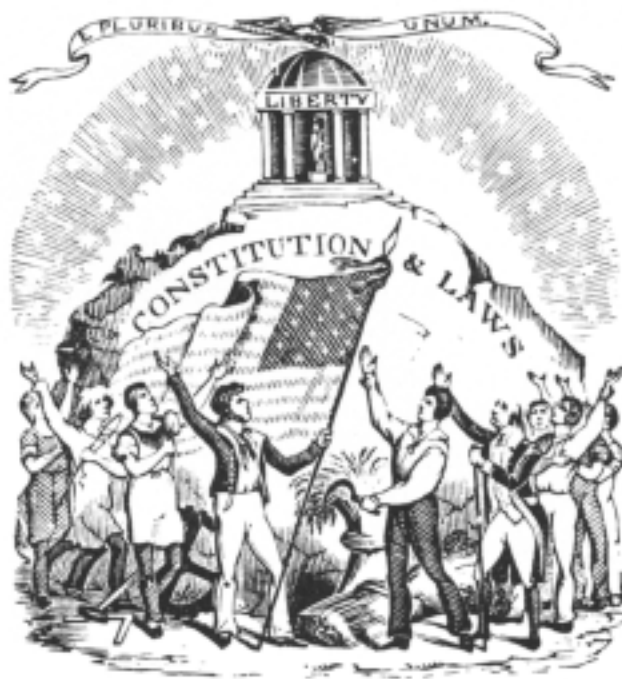
Prince William of Orange and his wife Mary came to the throne in the 1688 Glorious Revolution. As a condition of their rule, William and Mary accepted the Declaration

of Rights and the Toleration Act in 1689. The Toleration Act expanded freedom of religion. It granted Protestants who did not attend the Church of England the right to freely exercise their faith freely (First Amendment). The Declaration of Rights gave Parliament total freedom of speech during debate (First Amendment). The Declaration also included: the right to assemble peacefully and to petition (First Amendment); the right to keep arms (Second Amendment); protections of property and liberty (Fourth and Fifth Amendments); rights of the accused (Sixth Amendment); and rights of criminals (Eighth Amendment).

What Was the Purpose of Government?

Forty years after Charles's execution and just after the Declaration of Rights, John Locke wrote *Two Treatises of Government* (1690). Locke argued that men are by nature free and equal and that they own their "persons [bodies] and possessions." He said people must "unite into a community for their comfortable, safe, peaceable living" in order to defend their rights. Locke believed that a government's purpose is to protect individual natural rights such as life, liberty, and property. Therefore, people must have the right to dissolve a government that is not protecting them.

And so it was in the thirteen colonies. When the British ignored English laws in the American colonies, the colonists were armed with a tradition of demanding those laws be followed.



What Did the Colonial Experience Teach the Founders?

The colonists brought their rights as Englishmen to the earliest American colonies. Massachusetts adopted the "Body of Liberties" in 1641. The document included protection for free speech and petition (First Amendment), just compensation for property taken for public use (Fifth Amendment), protection from double jeopardy (Fifth Amendment), right to trial by jury and counsel (Sixth Amendment), and protection from cruel punishments and excessive bail (Eighth Amendment).

As the British government began to limit freedoms between 1763 and 1776, the colonists' resolve was tested. For example, the 1765 Quartering Act demanded colonists give British troops shelter (Third Amendment). The 1774 Coercive Acts

*More than half the Amendments
in the Bill of Rights have
roots in the Magna Carta.*

included: restricting the right of the press, free speech, and the right of assembly (First Amendment); confiscating of colonists' weapons (Second Amendment); lifting protections of property (Fourth and Fifth Amendments); prosecuting colonial activists in English courts, or holding them without trial (Sixth Amendment). The colonists responded to these acts with protest and eventually revolution. The colonists later addressed these issues in the United States Bill of Rights.

How Did History Repeat Itself?

The conflict reached a breaking point in 1776. As Locke had written, the people had the right to dissolve a government that was not protecting their rights. Americans realized they needed self-government and issued a Declaration of Independence. Locke had listed life, liberty, and property as natural rights, while Thomas Jefferson substituted "life, liberty, and the pursuit of happiness." The Declaration of Independence went on to list ways the British had violated the rights of Englishmen.

The colonists then had to begin creating their own government. They threw out the colonial charters and wrote new constitutions. Seven colonies included a Declaration of Rights. The most important of these, historians

agree, was Virginia's. The Virginia Declaration of Rights, written by George Mason, protected the press, exercise of religion, arms, property, the accused, and criminals. James Madison later used it as a model when he wrote the United States Bill of Rights.

After the Revolution, the states united under the Articles of Confederation from March 1781 to June 1788. The Articles proved to be an inadequate system of government. To replace it, the Founders drafted a new document: the Constitution of the United States of America. This document created a stronger central government.

Why Add a Bill of Rights?

There were some Americans who feared the central government was too strong under the Constitution alone. They believed that a separate listing of rights was needed to protect individual and states' rights. A compromise eased the debate. The new Constitution was ratified in 1789 and two years later amended to include a bill of rights.

The Founders inherited a tradition of rights that they cherished. They created the American system of government with great care to ensure future generations would enjoy all the "blessings of liberty." In the end, it is not the governments who are sovereign, but the people.

LESSON 1 *Rights Attitude Inventory*

Directions: Number the following rights in order of importance from 1 to 10 — with 1 being most important. In other words, place a 10 next to the right you could give up most easily, and a 1 next to the right you cannot imagine living without.

- _____ 1. Freedom of speech
- _____ 2. Freedom of religion
- _____ 3. Right to a jury trial
- _____ 4. Freedom of the press
- _____ 5. Freedom from cruel and unusual punishments
- _____ 6. Right to keep and bear arms
- _____ 7. Right to control your own property
- _____ 8. Freedom of assembly
- _____ 9. Freedom from quartering troops in your home
- _____ 10. Freedom from unreasonable search and seizures

LESSON 1 Foundations of Our Rights

Directions: Fill in the chart, placing check marks where certain rights were guaranteed by each document. Then fill in the chart below with the purpose of each document.

	RIGHT	RIGHT	RIGHT	RIGHT	RIGHT	RIGHT	RIGHT
Bill of Rights (1791) Reference	First: religion, speech, press, assembly, petition	Second: keep and bear arms	Third: freedom from quartering troops	Fourth: search and seizure rights	Fifth: due process rights	Sixth: fair trial rights	Eighth: freedom from cruel and unusual punishment
Magna Carta (1215)							
Petition of Right (1621)							
Mass. Body of Liberties (1641)							
Declaration of Right and Toleration Acts (1689)							
Right violated in colonies?							

Document	Purpose
Two Treatises of Government (1690)	
The Declaration of Independence (1776)	
The United States Constitution (1789)	

LESSON 1 *Founding Documents and Philosophies*

1. What does the Declaration of Independence have in common with Locke's *Two Treatises of Government*?

2. How are these two documents different?

3. How does the Constitution differ from the Articles of Confederation?

4. Why do you think some specific rights appear more often than others in the documents?

5. At the start of class, we discussed which rights the class believed were most important. Which right, and why, do you think is most important to your parents? Discuss this question with them and report their answers back to the class.

LESSON

2

Why a Bill of Rights? What Impact Does it Have?**Overview**

The debate over the Bill of Rights was not an argument over whether rights exist, but about how best to protect those rights. The Founders disagreed about whether a bill of rights was necessary, and whether it could be effective. Current and future generations continue to face the challenges of safeguarding individual rights.

Standards

- NCHS (5-12): Era III, Standards 3A, 3B
- CCE (9-12): IIIA1
- NCSS: Strands 6 and 10

Recommended Time

One 45-minute class period.

Objectives

Students will:

- Explain the arguments of the Federalists and Anti-Federalists regarding the Bill of Rights.
- Identify continuing controversies regarding appropriate powers of government versus individual rights.
- Analyze the implications of Federalist and Anti-Federalist positions.
- Participate in civil discourse concerning the Bill of Rights.

Materials

STUDENT

- Background Essay
- Reading Quiz (optional)
- Founders DVD: Segment Two and Viewing Guide
- Handout A: Understanding Positions of Federalists and Anti-Federalists
- Handout B: Federalists and Anti-Federalists Venn Diagram
- Handout C: Classifying Quotes

TEACHER

- Primary Passage Quote Cards
- Key: Handout A
- Key: Handout B
- Key: Handout C

Lesson Plan**1. Background/
Homework**

[10 minutes the day before]

A. Assign the Lesson Two **Background Essay, “Why a Bill of Rights? What Impact Does it Have?”** for students to read prior to class time. Along with the essay, give students **Handout A: Understanding Positions of Federalists and Anti-Federalists** to fill in as they read.

B. Before class, print out **Primary Passage Quotes**, laminate them, and tape them up around the room.

2. Warm-Up

[10-15 minutes]

A. Begin discussion of the Founders by talking about a “real life” news story highlighting the topic. Visit the Bill of Rights Institute website, <http://www.billofrightsinstitute.org>, for daily headlines or a complete “Bill of Rights in the News” activity.

B. Divide students into pairs or trios and ask them to share their homework **Handout A** chart responses and compare their answers.

C. Have each group identify which argument they feel is strongest for each heading—Federalists and Anti-Federalists.

3. Activity [20-30 minutes]

A. Show segment two of Founders DVD and have students complete Viewing Guide.

Give each group a copy of **Handout B**, instructing them to complete the Venn diagram using key words to record the positions of the Federalists and Anti-Federalists.

B. Go over the Venn diagrams as a class, and answer any questions.

C. Have students walk around the room with a partner and read each of the quotes. Each pair should have **Handout C**. Each pair should discuss each quote and decide whether it represents Federalist or Anti-Federalist beliefs. They should then write “F” or “AF” beside each number on their paper as they walk around the room.

D. After everyone has finished, discuss each quotation as a class and reveal who the speaker in each case is.

E. Wrap up by asking students about a time when they either experienced their own rights being abridged, or witnessed

this happen to someone else. How did this make them feel? What was, or should be, the government’s role in protecting everyone’s rights?

Extension Options

Homework

A. Have students choose one quote from the quote cards and write a two to three paragraph essay either supporting or refuting its position.

B. Ask students to choose one Federalist or Anti-Federalist thinker and assume their persona. Have them compose a one-page, persuasive speech he might have given about the Constitution and whether it should be ratified as is, ratified with conditions, or not ratified.

Enrichment

A. Ask students to write a personal narrative or one-act play based on their answer to part E of the class discussion. Were their own rights ever been abridged, or did they witness this happen to someone else? What was the outcome, and how did it change their perspective on individual rights?

B. Have students find newspa-

per clippings or on-line articles that relate to the central concepts of this lesson: How can government be structured to best protect individual rights? Create a bulletin board to display the collected clippings. Have students speculate how James Madison or George Mason would have responded to the issues raised by the articles.

LESSON 2 **Why a Bill of Rights? What Impact Does it Have?**

All have heard the saying, “Great minds think alike.” When many great minds of the colonies gathered to create a new government, two rarely thought exactly alike. The Bill of Rights was created through the kind of debate and exchange of ideas that it protects to this day.

The Declaration of Independence states the purpose of government is to protect our basic human rights. This was one principle that all the Founders did agree on. But if they created a great system to protect rights, why did they argue about a bill of rights?

READING TIP:

As you read, look for the main ideas of the Federalists and Anti-Federalists.

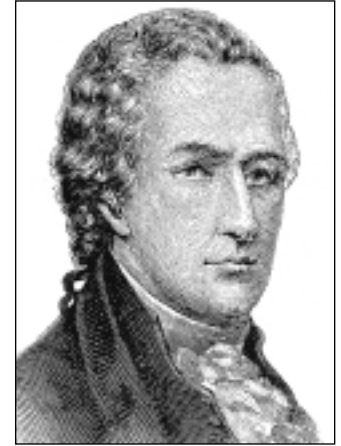
Who Were the Federalists and Anti-Federalists?

Two groups formed during the discussion over a bill of rights. **Federalists** strongly supported the Constitution as it was written and did not think a bill of rights was needed. **Anti-Federalists** felt that a bill of rights would prevent the central government from threatening states’ authority and oppressing citizens.

Federalists included Alexander Hamilton from New York and, at first, James Madison from Virginia. They believed a bill of rights was not needed because the Constitution itself limited the government’s powers. They also feared that creating a list of rights might

lead to other dangers. It would be impossible to list every right. Federalists did not want certain rights to be ignored just because they were not listed.

Anti-Federalists included George Mason and Patrick Henry of Virginia. They thought that listing rights would help protect against the powerful central government taking away the freedoms they had fought a revolution to preserve.

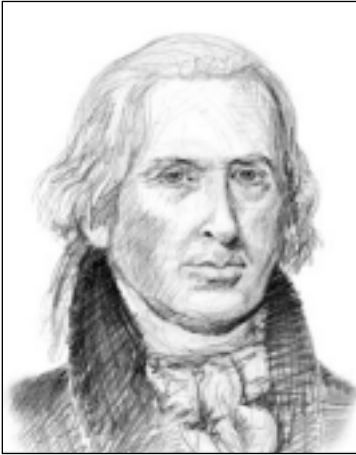


ALEXANDER HAMILTON

Why Did Madison Change His Mind?

The Constitutional Convention ended in late 1787, but the debate went on. Nine states ratified (approved) the Constitution by the summer of 1788. However, New York, Virginia, and Massachusetts submitted long lists of proposed amendments to guarantee rights. It became clear the people wanted a bill of rights.

Madison sought the advice of Thomas Jefferson, John Adams, George Mason and President George Washington. They all expressed support for a bill of rights. Mason suggested using state declarations of rights as a guide. Madison changed his mind and encouraged his fellow congressmen to support a bill of rights in 1789.



JAMES MADISON

Madison offered many proposed changes to Articles I and III of the Constitution on June 8, 1789. He originally made small word additions and changes to the original Constitution. Some Congressmen objected, arguing that Congress did not have the power to change the original form of the Constitution.

They decided the Amendments would be added as a separate list.

The House of Representatives debated through the summer. On August 24, 1789, the House sent a list of seventeen amendments to the Senate. The Senate approved twelve. Those twelve were sent to the states for ratification (approval). On December 15, 1791, Virginia's state convention became the last to ratify the ten amendments that protected rights. The Bill of Rights now joined the Constitution as the governing document of the United States.

The Bill of Rights began with debate over its very existence.

In the twentieth century, the role of the federal government shifted. As a result of the federal government's expanded role, its size, purpose, and significance have changed. The change also affected the national view of the Bill of Rights. The document that rarely affected American's lives soon after its ratification now takes center stage in American society and politics.

The Bill of Rights began with debate over its very existence. Perhaps it is fitting that it still brings about questions and controversy today. Great minds do sometimes think alike, but the Bill of Rights protections ensure that the law cannot make them do so.

What Is the Impact of the Bill of Rights?

The Bill of Rights limited only actions taken by the federal government against people. The Founders assumed citizens would be protected by their home states' constitution. For this reason, the Bill of Rights did not strongly impact Americans' lives until the Fourteenth Amendment was passed. The Fourteenth Amendment applied the Bill of Rights to state governments.

LESSON 2 *Understanding Positions of Federalists and Anti-Federalists*

Directions: Fill in the chart below with positions of Federalists and Anti-Federalists. Then answer the questions below.

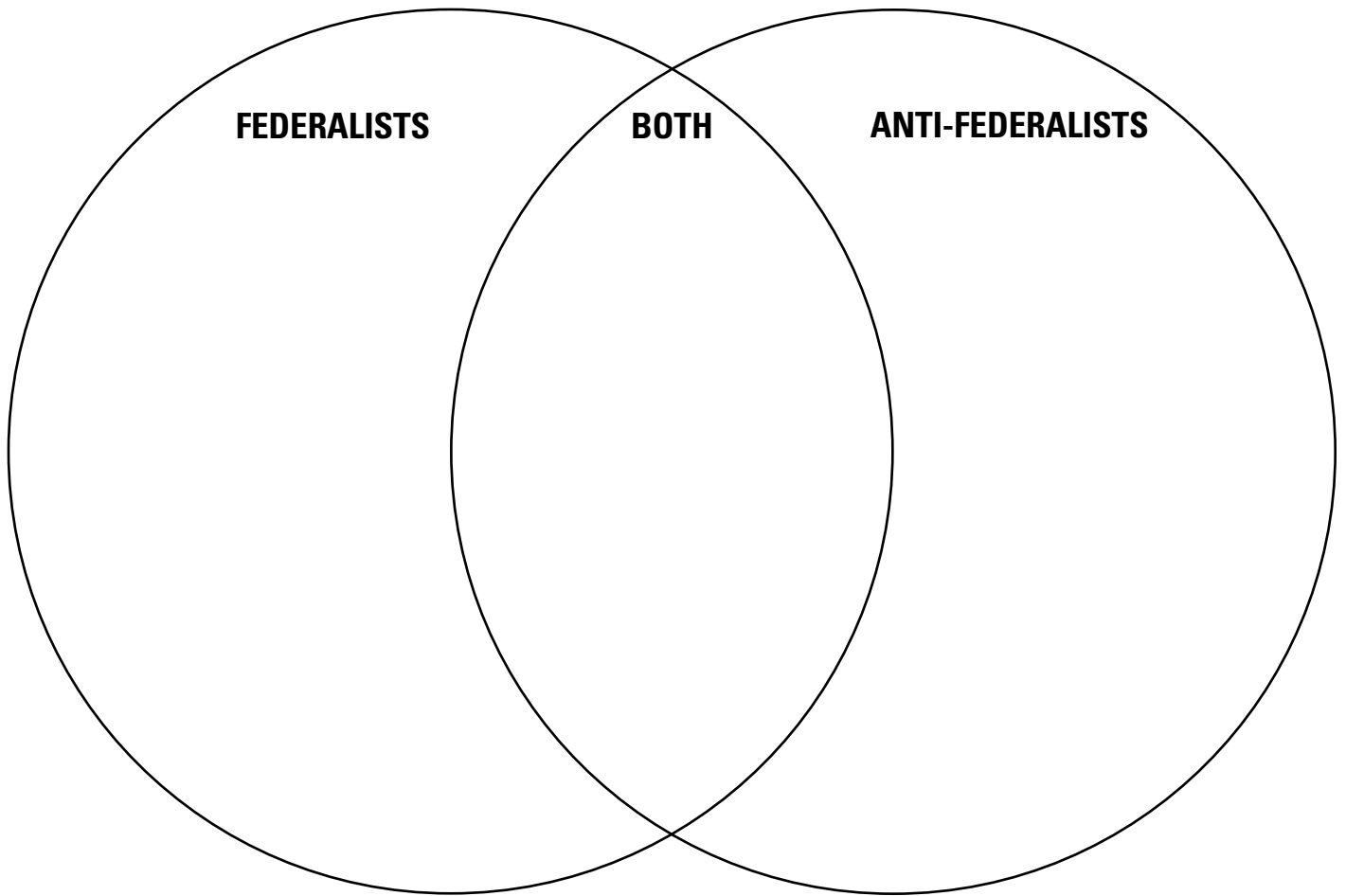
FEDERALISTS (Alexander Hamilton, James Madison)	ANTI-FEDERALISTS (George Mason, Patrick Henry)

1. Name two points of agreement among Federalists and Anti-Federalists.

2. Which point do you think is each side's strongest argument?

LESSON 2 ***Federalists & Anti-Federalists Venn Diagram***

Directions: Fill in the chart with positions of Federalists, Anti-Federalists, and the points on which they agreed.



LESSON 2 *Classifying Quotes*

Directions: Read each quote and decide whether it represents Federalist or Anti-Federalist views. Then circle “F” for Federalist or “AF” for Anti-Federalist next to each quote. Then try to guess who is the speaker of each quote.

- | | | | |
|---|-----|----|---|
| F | A-F | 1. | “I do not conceive we can exist long as a nation without having...a power which will pervade the whole Union....” |
| F | A-F | 2. | “The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient.” |
| F | A-F | 3. | “The laws of the general government being paramount to the laws and constitutions of the several states, the Declaration of Rights in the separate states are no security.” |
| F | A-F | 4. | “The vigor of government is essential to the security of liberty.” |
| F | A-F | 5. | “...State Legislatures have no security for the powers now presumed to remain to them, or the People for their Rights.” |
| F | A-F | 6. | “There is no Declaration of any kind for preserving the Liberty of the Press, the Trial by Jury in civil Causes; nor against the Danger of standing Armies in time of Peace...” |
| F | A-F | 7. | “Repeated violations of these parchment barriers have been committed by overbearing majorities in every State.” |
| F | A-F | 8. | “A bill of rights is what the people are entitled to against every government on earth, general or particular, and what no just government should refuse or rest on inference.” |

1. “I do not conceive we can exist long as a nation without having lodged somewhere a power, which will pervade the whole union in as energetic a manner as the authority of the state governments extends over the several states.”

2. “The State Declarations of Rights are not repealed by this Constitution; and being in force are sufficient.”

3. “The laws of the general government being paramount to the laws and constitutions of the several states, the Declaration of Rights in the separate states are no security.”

4. “The vigor of government is essential to the security of liberty.”

5. “State legislatures have no security for the powers now presumed to remain to them, or the people for their rights.”

6. “There is no declaration of any kind for preserving the liberty of the press, the trial by jury in civil causes; nor against the danger of standing armies in time of Peace...”

7. “Repeated violations of these parchment barriers have been committed by overbearing majorities in every state.”

8. “A bill of rights is what the people are entitled to against every government on Earth, general or particular, and what no just government should refuse or rest on inference.”

Teacher Notes